

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe the subject matter which Applicant regards as the invention.

The disclosure of an abstract is objected to because of an improper language and format. The abstract has been amended to use a proper language and format. Thus, withdrawal of the objection as it applies to the abstract is respectfully requested.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (US 6,269,256 B1, hereinafter "Nakamura") in view of Yoshida (JP 2002232534 A, hereinafter "Yoshida"). For at least the following reasons, the rejection is respectfully traversed.

Regarding claim 1, neither Nakamura nor Yoshida discloses control means, which turns on the light emission means to have the push button lighted up when the opening/closing detection means detected a "closing" state at the time that there is an incoming call, and turns off the light emission means when it detected an "opening" state, wherein the control means starts a talk at the time that there is an incoming call and the housing is changed "closing" to "opening" state.

The Office Action states that it is obvious from the combination of Nakamura and Yoshida to provide the apparatus of claim 1. However, neither Nakamura nor Yoshida discloses, teaches or suggests control means, which turns on the light emission means to have the push button lighted up when the opening/closing detection means detected a "closing" state at the time that there is an incoming call, and turns off the light emission means when it detected an "opening" state.

Although a rigid “teaching, suggestion, or motivation” test (TSM test) is not an appropriate test for obviousness inquiry, it is still required to show a reason for combining the elements in the manner claimed (KSR International, Co. v. Teleflex Inc., 550 U.S. ...). Here, as described above, neither Nakamura nor Yoshida discloses, teaches or suggests the control means of claim 1. Accordingly, there is no reason for combining Nakamura with Yoshida for obviousness inquiry. Therefore, the asserted combination of Nakamura and Yoshida does not render claim 1 obvious.

Kim (U.S. Patent 6,254,249, hereinafter “Kim”) discloses a control unit for a cellular phone. However, Kim’s control unit is different from the control means of claim 1. Kim’s control unit only supplies the power to an illuminating lamp which is not a push button, but merely a lamp for illuminating an entire area of a key pad. Kim’s control unit does not turn on the light emission means to have the push button lighted up. Kim’s illuminating lamp is not designed as a lamp for the push button. On the other hand, the control means of claim 1 turns on the light emission means to have the push button lighted up. Also, Kim’s control unit requires the user turn on the illuminating button to light on the second illuminating lamp when the cover is closed (Kim, column 4, lines 8-14). The control means of claim 1, without the user’s help, turns on the light emission means when the opening/closing detection means detected a "closing" state at the time that there is an incoming call. In addition, the purposes of Kim’s invention which are to make it easy for the users to read telephone numbers and to reduce the thickness of the cellular phone are different from the purpose of the present invention which is to guide a user to a talkable state at the time that there was an incoming call. Accordingly, even considering Kim, there is no reason for combining Nakamura and Yoshida with Kim for obviousness inquiry. Therefore, even the

combination of Nakamura, Yoshida and Kim does not render claim 1 obvious. Thus, withdrawal of the rejection as it applies to claim 1 is respectfully requested.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Yoshida further in view of Kim (U.S. Patent 6,254,249, hereinafter "Kim"). For at least the following reasons, the rejection is respectfully traversed.

Regarding claim 2, none of Nakamura, Yoshida and Kim discloses control means, which turns on the first light emission means to have the push button lighted up and turns off the second light emission means when the opening/closing detection means detected a "closing" state at the time that there is an incoming call, and turns off the first light emission means and turns on the second light emission means to have the talk key lighted up when it detected an "opening" state, wherein the control means starts a talk at the time that there is an incoming call and the housing is changed from a "closing" state to an "opening" state.

The Office Action states that Kim teaches the control means which turns on the first light emission means and turns off the second emission means when the opening/closing detection means detected a "closing state at the time that there is an incoming call, and turns off the first light emission means and turns on the second light emission means when it detected an "opening state. However, Kim's control unit only supplies the power to an illuminating lamp which is neither a push button nor a talk key, but merely a lamp for illuminating an entire area of a key pad. Kim's control unit does not turn on the first light emission means to have the push button lighted up, and does not turn on the second light emission means to have the talk key lighted up. Kim's illuminating lamp is not designed as a lamp for the push button or the talk key. On the other hand, the control means of claim 2 turns on the first light emission means to have the push button lighted

up and turns on the second light emission means to have the talk key lighted up. Also, Kim's control unit requires the user turn on the illuminating button to light on the second illuminating lamp when the cover is closed (Kim, column 4, lines 8-14). The control means of claim 2, without the user's help, turns on the first emission means when the opening/closing detection means detected a "closing" state at the time that there is an incoming call, and turns on the second light emission means without the user's help when it detected an "opening" state.

The Office Action states that it is obvious from the combination of Nakamura, Yoshida and Kim to provide the apparatus of claim 2. Although a rigid "teaching, suggestion, or motivation" test (TSM test) is not an appropriate test for obviousness inquiry, it is still required to show a reason for combining the elements in the manner claimed (KSR International, Co. v. Teleflex Inc., 550 U.S. ...). Here, as described above, Kim's control unit is completely different from the control means of the present invention. In addition, the purposes of Kim's invention which are to make it easy for the users to read telephone numbers and to reduce the thickness of the cellular phone are different from the purpose of the present invention which is to guide a user to a talkable state at the time that there was an incoming call. Accordingly, there is no reason for combining Nakamura and Yoshida with Kim for obviousness inquiry. Therefore, the asserted combination of Nakamura, Yoshida and Kim does not render claim 2 obvious. Thus, withdrawal of the rejection as it applies to claim 2 is respectfully requested.

Regarding claims 3 and 4, since claim 2 should be allowable as described above, claims 3 and 4 which are dependent from claim 2 should also be allowable for at least the same reason.

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura, Yoshida, Kim and further in view of Iwata (U.S. Patent 6,335,749 B1). For at least the following reasons, the rejection is respectfully traversed.

Regarding claims 5 and 6, since claim 1-3 should be allowable as described above, claims 5 and 6 which are dependent from any one of claims 1 through 3 should also be allowable for at least the same reason.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any fees resulting from this communication, please charge same to our Deposit
Account No. 16-0820, our Order No. NGB-38803.

Respectfully submitted,

PEARNE & GORDON LLP

By: 
Nobuhiko Sukenaga, Reg. No. 39446

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

DATE: December 21, 2007